THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 21880 OF 2005

February, 2006

Between:

Lawadiya Balram and Others …Petitioners

A N D

Mandal Revenue Officer, Kothur Mandal and Others

…Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 21880 OF 2005

O R D E R :

1. Petitioners who are 23 in number filed this writ petition with a prayer to issue a writ of mandamus or any other appropriate writ declaring the action of Mandal Revenue Officer, Kothur Mandal, Mahabubnagar District-1st respondent contained in File No. A/468/2005, dated 18-07-2005 purporting to cancel the Pattadar Pass Books and

Title Deeds of the petitioners in respect of the lands in Sy.Nos. 287,293,295,296,307,309 and 325, totally admeasuring about Ac.67-00 of Immulnarva village, Kothur Mandal, Mahabubnagar District is arbitrary and illegal. Consequential declaration has also been sought for with regard to order passed by the Revenue Divisional Officer, Mahabubnagar-2nd respondent in proceeding No. B/3145/92, dated 31-10-1993 and order of the Mandal Revenue Officer, Kothur-1st respondent in File No.A/420/94, dated 22-6-1994 as illegal.

2. The facts of the case leading to filing to this writ petition in brief are:-

Ganga Bai-4th respondent was the pattadar of Ac.67-00 comprising Survey Nos. 287,293,295,296,307,309 and 325 of Immulnarva village, Kothur Mandal, Mahabubnagar District. The said lands have been in possession and enjoyment of the petitioners and their fore fathers for more than fifty years. The pattadar-4th respondent executed simple sale deeds in respect of the said lands. The petitioners applied for regularization of alienations under Section 5-A of A.P. Rights in Lands and Pattadar Pass Books Act, 1979 (hereinafter referred to “as Act, 1971”). The Mandal Revenue Officer, Kothur Mandal-1st respondent considered the applications of the petitioners and granted Pattadar Pass Books and Title Deeds in their favour vide File No. A/1265,1266,1267,1268,1269 of 1991 and A/1173 and 1174 of 1989. The names of the petitioners have been entered in Revenue Records as pattadars and possessors of the said lands. The petitioners are lambadas (Scheduled Tribe) and they are cultivating the lands by raising crops such as Paddy, Jawar, Maize and vegetables. The proceedings dated 18-7-2005 issued by the Mandal Revenue Officer, Kothur Mandal, Mahabubnagar District-1st respondent came to be served on them on 30-9-2005 whereby and where under they have been asked to submit their Pattadar Pass Books and Title Deeds. The proceedings dated 18-7-2005 issued by the 1st respondent read as follows:

> “*As per the reference 1st cited, it is to inform that in the village Inmulnarava village sy.Nos. 287,293,295,296,307,309 and 325 Extent Ac. 74-22 Sri Ramdasu Sevya and others has been declared as pattadars as per the Sec. 5A of the Act. Smt. Ganga Bai has obtained an order from the Revenue Divisional Officer, Mahabubnagar to enquiry into the matter. As per the reference 2nd cited, the case of Gangai Bai has to reconsider. It is submitted that the persons pattadars has obtained pattadar*

pass books by misrepresenting the facts. Hence, the persons referred above has directed to submit their pattadar pass books, title deeds etc., to the office. Hence action will be taken again".

3. According to the petitioners, they came to know that as against the orders of Regularization of alienations passed in their favour in the years 1989-91, Ganga Bai-4th respondent filed an appeal before the Revenue Divisional Officer, Mahabubnagar in the year 1992 and said appeal came to be allowed on 31-10-1993 by remitting back the matter to the Mandal Revenue Officer-1st respondent and, on remand, orders were passed on 22-6-1994 setting aside the regularization of alienations made in the years 1989-91 and that the 4th respondent submitted representation dated 22-4-2005 for implementation of the orders of the 1st respondent and thus the 1st respondent proceeded to cancel Pattadar Pass Books and Title Deeds issued in favour of the petitioners. It is the specific assertion of the petitioners that the 2nd respondent was not competent to entertain the appeal presented by the 4th respondent against the orders of the 1st respondent and thus the order of the 2nd respondent on appeal petition presented by Ganga Bai-4th respondent is a nullity. For better appreciation, the relevant portion of the affidavit filed in support of the writ petition needs to be noted and it is thus:-

"*I submit that we are totally unaware of any proceedings as against the orders of regularization that were passed in our favour in the year 1989 and 1991. For the first time, from the impugned letter dated 18-07-2005, which is served on us on 30-09-2005, we came to know that the 4th respondent has carried the matter in appeal to the 2nd respondent and the 2nd has remanded the matter to the 1st respondent and on remand, the 2nd respondent has passed the alleged orders dated 22-06-1994 setting aside the regularization that was granted in our favour. It is relevant to submit here that the appellate remedy before the Revenue Divisional Officer u/S 5-B of the Act was introduced only with effect from 30-10-1993 and at the time when the alleged appeal was filed by the 4th respondent before the 2nd respondent, she had no appellate jurisdiction to decide on the subject of regularization as per the Division Bench Judgment of this Hon'ble Court reported in 2003 ALT (Revenue) 267. At any rate, we were never served with any*

notice about the said appeal filed by the 4th respondent and, therefore, we were totally in dark about the alleged appeal or about the alleged appellate order. Likewise, the 1st respondent did not issue any notice to us about the de nova enquiry said to have been made pursuant to the alleged appellate order. Thus, the alleged appellate order dated 31-10-1993 and the alleged order of the 1st respondent dated 22-06-1994 on remand as per the alleged appellate orders are both without any notice to us. The very fact that no steps are taken by the revenue authorities ever since 1994 till the date of issue of the impugned letter is a clear indication that there were no such orders affecting our rights. It is equally strange that the 4th respondent has kept quite for more than 10 years as regards the alleged implementation of the alleged order of the 1st respondent dated 22-06-1994. We have reliable information that the 1st respondent is acting at the behest of the 4th respondent and there is an imminent threat to our possession from the subject lands. As already stated, we are dependent on the agricultural income and we have constructed houses in the subject lands and we have been residing there for the last several decades. As already stated, the alleged appellate order dated 31-10-1993 itself is without jurisdiction and hence alternatively it is submitted that the alleged order of the 1st respondent dated 22-06-1994 is equally non-est in the eye of law. Since our possession and enjoyment of the land is at stake and there is a concerted action of attempted dispossession against us, we are constrained to file the present Writ Petition. It is submitted that the 1st respondent does not have any power or jurisdiction to direct us to surrender our Pattadar Pass Books and Title Deeds".

4. 1st and 4th respondent filed counter affidavits One M. Rangachari has sworn to the counter affidavit filed on behalf of the 1st respondent. It is stated in the counter affidavit that the 4th respondent preferred an appeal before the Revenue Divisional Officer, Mahabubnagar, against the orders of regularization of the alienations and thereupon the Revenue Divisional Officer, Mahabubnagar allowed the appeal setting aside the order of the Recording Authority-Mandal Revenue Officer and remanding the matter back to the recording authority-Mandal Revenue Officer for denovo enquiry. It is further stated that the Mandal Revenue Officer, Kothur conducted denovo enquiry and passed orders on 22-6-1994 holding that the sale

documents are not genuine. The petitioners were served with notice on 13-4-1994 with regard to denovo enquiry. Subsequent proceedings before the original authority indicate that the petitioners have knowledge of the denovo enquiry. The orders passed by the appellate authority is further revisable under Section 9 of the Act, 1971 and it is open to the petitioners to file statutory revision before the Joint Collector assailing the order of the appellate authority. The petitioners having not filed an appeal or revision under the Act, 1971 cannot be permitted to challenge the proceedings after lapse of ten years by invoking extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. Counter affidavit of 4th respondent in brief is as follows: -

The petitioners created the alleged unregistered sale deeds by forging her signature and got validated without any notice to her, as such, the very regularization proceedings in File No. A/1265 to 1269 of 1991 and A/1173 and 1174 of 1989 granting mutation and issuing Pattadar Pass Books in the year 1992 are the outcome of the fraud played by the petitioners. She preferred an appeal before the Revenue Divisional Officer, Mahabubnagar in File No.B/3145/92 challenging the regularization of the alienations and mutation of patta in the name of the petitioners. In the said appeal notices were served on the petitioners as well as ancesters of some of the petitioners who were also parties therein. In spite of service of notices, the petitioners did not choose to contest the appeal. The appellate authority, on considering the material on record, set aside the orders of the Mandal Revenue Officer and remanded the matter back to Mandal Revenue Officer to conduct denovo enquiry. On remand, notices were duly served on petitioners 1 to 4, husband of the petitioner No.5, petitioners 11 to 15 and father of the petitioners 6 to 9 and husband of the petitioners No.10 and father of the petitioners 17,19 to 23 and one person by name Ramulu on 22-4-1994. In pursuance of the said notice, the petitioners appeared before the Mandal Revenue Officer, Kothur and participated in the denovo enquiry proceedings. The petitioners failed to prove their documents i.e. sale deeds and therefore, the Mandal Revenue Officer came to the conclusion that the petitioners earlier obtained orders of regularization of alienations by producing forged documents. Para 5 of the counter affidavit needs to be noted and it is thus;

"*I submit that the petitioners herein were served with notices in*

the denovo enquiry before the Mandal Revenue Officer, Kothur in Case No. A/420/94 and they have participated in the said enquiry but failed to prove the execution of alleged unregistered sale deeds and the Mandal Revenue Officer also gave a finding that the petitioners herein have forged the document and mislead then M.R.O. and got done the validation of the alleged documents. In the Writ Affidavit, the Petitioners have stated that they are totally unaware of the appeal proceedings before the R.D.O. and also the proceedings in the denovo enquiry conducted by the M.R.O. and for the first time they came to know about the same through the impugned letter, which is totally a false statement. I have obtained the certified copies of the notices issued by the M.R.O. and also the served copies of the notices etc., and I am filing the said documents along with this Counter affidavit for kind perusal of this Hon'ble Court, which proves that the petitioners were served with notices. The petitioners have made a false statement and suppressed the above mentioned facts and the petitioners did not approach this Hon'ble Court with clean hands. As such the Petitioners are not entitled to any relief, much less the discretionary relief Under Article 226 of the Constitution of India"

6. It is further stated in the counter affidavit that she has sold the subject lands to Sri R.Narsimha Reddy and Sri N.Raghavender under Registered Sale Deed No.7327/2005, dated 10-08-2005 and delivered the possession of the same to the purchasers.

7. Heard Sri Vedula Venkata Ramana, learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for Respondents 1 to 3 and Sri D. Prakash Reddy, learned Senior Counsel appearing for Respondent No.4.

8. Learned counsel for the petitioners submits that the impugned order dated 31-10-1993 of the 2nd respondent is totally without jurisdiction. The learned counsel further contends that Section 5-A of R.O.R. Act was introduced into the Act by A.P. Act 1 of 1989 and the Amendment Act 1 of 1989 did not provide for any appeal or revision against the order of the Mandal Revenue Officer under Section5-A of the R.O.R. Act. The order under Section 5-A by the statutory authority was final, since no appeal or revision has been provided and as Section 5-B was introduced into the Act by A.P. Act of 1994 with effect from 31st October, 1993. The same Amendment Act 1994 has

further amended Section 9 of the Act providing revisional remedy even against the order passed by the Mandal Revenue Officer. It is submitted that the remedy of the appeal was not available against the order passed by the Mandal Revenue Officer under Section 5-A of the R.O.R. Act before 31st October,1993. It is contended that as on the date of order passed by the Mandal Revenue Officer under Section 5-A of the R.O.R. Act, there was no right of appeal provided against the order passed by Mandal Revenue Officer and it became final. The sum and substance of the submission is that as on the date of commencement of the litigation between the parties, there was no right of appeal and the right of appeal as provided under Section 5-B of R.O.R. Act with effect from 31st October, 1993 is of no consequences so far as the appeal filed by the 4th respondent-Smt. Ganga Bai. A further submission has been made that entertaining the appeal under Section 5(5) of Pattadar Pass Books Act, 1971 against the order passed by the Mandal Revenue Officer for validating alienations is impermissible and without jurisdiction and therefore, the order passed by the Revenue Divisional Officer on the said appeal is a nullity. In support of his submissions reliance has been placed on the decision in ***M.B.Ratnam Vs. Revenue Divisinal Officer, R.R. District***, ***Dhurandhar Prasad Singh Vs. Jai Prakash University, Rafique Bibi Vs. Sayed Waliuddin, Ram Chand Vs. Union of India and Sanjay Kumar Vs. State of Bihar.***

9. In the first cited decision, a Division Bench of this Court held that Section 5-A of the R.O.R. Act is a special and composite provision, which provides for regularization of alienation or other transfers of land under unregistered instruments. Its area of operation is totally different from that of the area of operation of Section 5 of the R.O.R.Act, which essentially deals with amendment and updating of record of rights on the strength of acquisition of any right referred to in Section 4 of the R.O.R. Act. Making of an entry in the pass book on the strength of the certificate issued under Section 5-A (4) cannot be equated to that of amendment and updating of Record of Rights as provided for under Section 5(1) of the R.O.R. Act. An appeal under Section 5(5) is provided only as against making amendment or refusing to make amendment in the record of rights under Section 5(1) of the Act. Therefore, no appeal as against a consequential decision of the recording authority under sub-section (5) of Section 5-A is provided for under sub section (5) of Section 5, which in turn provides for an appeal against the act of amending and updating of record of rights. It is also observed by the Division Bench in para 80 and 81 of the judgment

as follows:

> “80. The law is thus very clear that even a void order continues in de facto operation and the same can be ignored by an aggrieved person at his own risk and peril. Even such void orders continue to hold the field and have the effect in law like all other lawful orders until the same is set aside in a properly instituted proceedings at the instance of an aggrieved person. Even a void order cannot be wished away. Individuals cannot be permitted to disobey and disregard decisions presuming them as void decisions. Such a course if permitted may amount to taking law into one’s own hands. Rule of law and administration of justice processes would be in perial resulting in chaos.
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> ‘81. In the instant case, the Mandal Revenue Officer had the jurisdiction over the subject matter and he had the jurisdiction over the party and therefore, he made an order in deciding the applications submitted by the respondents, which cannot be said that the Mandal Revenue Officer has acted beyond his jurisdiction. The order cannot be treated as nullity. The errors, if any, in exercising his statutory power may amount to error of law and error of law can be corrected in the manner laid down and procedure prescribed by availing remedies available to get it corrected. If the party aggrieved does not take appropriate steps to have the error corrected, the error will hold good and will not be open to challenge on the basis of being a nullity”.

In the second cited decision, the Supreme Court observed in para 22 of the judgment as follows:

> “Thus the expressions “void and voidable” have been the subject matter of consideration on innumerable occasions by Courts. The expression “void” has several facets. One type of void acts, transactions, decrees are those which are wholly without jurisdiction, ab initio void and for avoiding the same no declaration is necessary, law does not take any notice of the same and it can be disregarded in collateral proceeding or otherwise. The other type of void act, e.g. may be transaction against a minor without being represented by a next friend. Such a transaction is a good transaction against the whole word. So far as the minor is concerned, if he decides to avoid the same and succeeds in avoiding it by taking recourse to appropriate proceeding the transaction becomes void from the

> very beginning. Another type of void act may be which is not a nullity but for avoiding the same a declaration has to be made. Voidable act is that which is a good act unless avoided, e.g., if a suit is filed for a declaration that document is fraudulent and/or forged and fabricated, it is voidable as the apparent state of affairs is the real state of affairs and a party who alleges otherwise is obliged to prove it. If it is proved that the document is forged and fabricated and a declaration to that effect is given, a transaction becomes void from the very beginning. There may be a voidable transaction which is required to be set aside and the same is avoided from the day it is so set aside and not any day prior to it. In cases where legal effect of a document cannot be taken away without setting aside the same, it cannot be treated to be void but would be obviously voidable".

It is further observed that there is fundamental principle well established that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings.

In the third cited decision, the Supreme Court held that a decree can be said to be without jurisdiction, and hence a nullity, if the Court passing the decree has usurped a jurisdiction which it did not have, but a mere wrong exercise of jurisdiction does not result in a nullity. The lack of jurisdiction in the Court passing the decree must be patent on its face in order to enable the executing court to take cognizance of such a nullity based on want of jurisdiction, else the normal rule that an executing Court cannot go behind the decree must prevail. Para 8 of the judgment needs to be noted and it is thus:

> "A distinction exists between a decree passed by a Court having no jurisdiction and consequently being a nullity and not executable and a decree of the Court which is merely illegal or not passed in accordance with the procedure laid down by law. A decree suffering from illegality or irregularity of procedure, cannot be termed in-executable by the executing Court, the remedy of a person aggrieved by such a decree is to have it set aside in a duly constituted legal proceedings or by a superior Court failing which he must obey the command of the decree. A decree passed by a Court of competent jurisdiction cannot be denuded of its efficacy by any collateral attack or in incidental proceedings".

In the 4th cited decision, Supreme Court held that the question of delay in invoking the writ jurisdiction of the High Court under Article 226 or of the Supreme Court under Article 32, has to be considered along with the inaction on the part of the authorities, who had to perform their statutory duties. Para 16 of the judgment needs to be noted and it is thus:

> "On behalf of the respondents, it was pointed out that the petitioners have approached this Court only alter making of the awards, or when awards were to be made, having waited for more than fourteen years, without invoking the jurisdiction of the High Court under Article 226 or of this Court under Article 32. IT is true that this Court has taken note of delay on the part of the petitioners concerned in invoking the jurisdiction of the High Court or of this Court for quashing the land acquisition proceedings on the ground that the proceedings for acquisition of the lands in question have remained pending for more than a decade, in the cases of Aflatoon V. Lt. Governor of Delhi and Ramjas Foundation V. Union of India. According to us, the question of delay in invoking the writ jurisdiction of the High Court under Article 226 or of this Court under Article 32, has to be considered along with the inaction on the part of the authorities, who had to perform their statutory duties. Can the statutory authority take a plea that although it has not performed its duty within a reasonable time, but it is of no consequence because the person, who has been wronged or deprived of his right, has also not invoked the jurisdiction of the High Court or of this Court for a suitable writ or direction to grant the relief considered appropriate in the circumstances ? The authorities are enjoined by the statute concerned to perform their duties witin a reasonable time, and as such they are answerable to the Court why such duties have not been performed by them, which has caused injury to claimants. By not questioning, the validity of the acquisition proceedings for a long time since the declarations were made under Section6, the relief of quashing the acquisition proceedings has become inappropriate, because in the meantime, the lands notified have been developed and put to public use. The lands are being utilized to provide shelter to thousands and to implement the scheme of a planned city, which is a must in the present set up . The outweighing public interest has to be given due weight. That is why this Court has been resisting attempts on the part of the landholders, seeking quashing of the acquisition proceedings on ground of delay in completion of such proceedings. But, can the respondents be not directed to compensate the petitioners, who were small cultivators holding

> lands within the ceiling limit in and around Delhi, for the injury caused to them, not by the provisions of the Act, but because of the non-exercise of the power by the authorities under the Act within a reasonable time."

In the last cited decision, the Supreme Court surveyed the views expressed in various judgments in England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Singham Megarry, J. and Straughton, L.J. etc., and also view expressed by leading writers like Profs, Garner, Craig, De-Smith, Wade, D. Clark etc., observed as follows:

> " Some of them have said that orders passed in violation must always be quashed for otherwise the Court will be prejudging the issue. Some others have said, that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via-media rules. We do not think it necessary, in this case to go deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case".

10. Learned senior counsel appearing for the 4th respondent submits that the petitioners, having appeared before the Mandal Revenue Officer-Recording Authority on remand, approached this Court taking a false plea that they were totally unaware of any proceedings against the orders of the regularization that were passed in their favour in the year 1989-91. By referring the relevant portion in the writ affidavit, he would contend that the petitioners having approached the Court with unclean hands are not entitled to any discretionary relief. He would further contend that interfering with the orders impugned in the writ petition amounts of revival of another order which is in itself illegal.

11. His next submission would be that the order impugned in the writ petition came to be passed on 31st October, 1993 and in pursuance of the order impugned, the writ petitioners made their appearance before the Mandal Revenue Officer-Recording Authority and therefore, their approaching this Court after a lapse of nearly 12 years is itself sufficient to dismiss the writ petition. To buttress his submissions reliance has been placed on the decisions in ***Gadde Venkateswara Rao Vs. Government of Andhra Pradesh, Modern Educational Society Vs. Govt. of A.P. Education (Trg.) Department, Mohd. Ameeruddin Vs. Osmania University, Hyderabad and***

State of A.P. through L.A.O. (R.D.O.) Warangal Vs. Chencharapu Madhusudhan Reddy.

In ***Gadde Venkateswara Rao's*** case, (6), the Supreme Court has held that the High Court is justified in refusing to exercise its extra ordinary jurisdiction if quashing of the order passed in violation of principles of natural justice results in revival of another order which is in itself illegal. Para 17 of the judgment in the above referred case needs to be noted and it is thus:

> " The result of the discussion maybe stated thus: The Primary Health Centre was not permanently located at Dharmajigudem. The representatives of the said village did not comply with the necessary conditions for such location. The Panchayat Samithi finally cancelled its earlier resolutions which they were entitled to do and passed a resolution for locating the Primary Health Centre permanently at Lingapalem. Both the orders of the Government, namely, the order dated March, 7,1962, and that dated April 18, 1963, were not legally passed; the former, because it was made without giving notice to the Panchayat Samithi, and the latter, because the Government had no power under Section 72 of the Act to review an order made under Section 62 of the Act and also because it did not give notice to the representatives of Dharmajigudem village. In those circumstances, was it a case for the High Court to interefere in its discretion and quash the order of the Government dated April, 18, 1963? IF the High Court had quashed the said order, it would have restored an illegal order – it would have given the Health Centre to a village contrary to the valid resolution passed by the Panchayat Samithi. The High Court, therefore, in our view, rightly refused to exercise its extraordinary discretionary power in the circumstances of the case".

In ***Modern Educational Societies case,(7)*** a Division Bench of our High Court held that it is well settled proposition of law that it is the duty of a person invoking the special writ jurisdiction of the Court to make a full and true disclosure of all relevant facts. He should not suppress any facts. The applicant for a writ under Article 226 of the Constitution must come in the manner prescribed and must be perfectly frank and open with the Court. If he conceals something, which is relevant from the Court, the Court will refuse to go into the matter.

I n **Mohd. Ameeruddin's case, (8)** a Division Bench of this Court has observed that where a party has lost his right due to delay, the Court should not

come to his aid. It is one thing to say that a person has a right, but is another thing to say that as to whether having regard to his conduct the Court of equity shall grant relief. In a case of delay and laches, the Court in appropriate cases, may, decline to grant such relief.

In ***Chencharapu Madhusudhan Reddy's case, (9)*** a Division bench of this Court dismissed the writ petition which was filed questioning the award of more than three years on the ground of laches.

12. Since the petitioners have stated in the writ affidavit that they were totally unaware of any proceedings where under the orders of the regularization of alienations were cancelled, this Court directed the respondents 1 to 3 to place on record the files maintained by the Mandal Revenue Officer and the Revenue Divisional Officer with regard to regularization of the alienations. The learned Government Pleader for Revenue placed on record the files relating to the regularization of the alienations on applications filed by the writ petitioners.

13. I have gone through the files maintained by the Mandal Revenue Officer and as well as files of the Revenue Divisional Officer with regard to the regularization of alienation/cancellation of regularization. The writ petitioners sought for regularization of alienations basing on the unregistered document stated to have been executed by Smt. Ganga Bai-4th respondent. The Mandal Revenue Officer acceded the request and proceeded to order for regularization of the alienations. Smt. Ganga Bai-4th respondent herein challenged the regularization of alienations proceedings by filing an appeal under Section 5(5) of the R.O.R. Act, before the Revenue Division Officer, Mahabubnagar. The petitioners despite receiving notice did not choose to appear before the Appellate Authority. The appellate authority considered the material placed on record and noticed that the Mandal Revenue Officer-Recording Authority passed orders of regularization of alienations without following the procedure and without serving notice on the landowner-4th respondent. The relevant portion of the order passed by the appellate authority reads as follows:

> "Perused the record of the Lower Court. It is evident from the Lower Court record that Respondent herein never produced any documentary evidence such as pahanies to prove his possession over the suit land. While passing the lower Court record no notice seems to have been served on the Landlord, the appellant herein and into contents of the sale

> deed it is clearly mentioned that Sri Ramdas s/o Bheekya was the Pattadar of the land where is necessity to execute a sale deed by the Ganga Bai when Ramdas is the owner. The signature on the sale deed is verified with the signature mentioned in the Vakalathnama and appeal memo was and found not tallying. The appellant personally appear before the Court and orally deposed that she is not executed any private deed in favour of respondent. The batch of appeals filed against the orders of the Mandal Revenue Officer, Kothur in file Nos. A/1265/91, A/1268/91, A/1266/91, A/1267/91, A/1269/91 and A/1173/91 are hereby allowed duly setting aside the orders under appeal and remitted back to conduct denova enquiry by affording reasonable opportunity to both the parties and decide the matter within (3) months".

14. In pursuance of the remand order passed by the Appellate Authority-Revenue Divisional Officer, the Mandal Revenue Officer issued notice to both the parties. The writ petitioners entered their appearance before the Mandal Revenue Officer on 6-6-1994 and sought for time for producing original sale documents. Having sought for time, the writ petitioners failed to appear before the Revenue Divisional Officer on the next date of adjournment. The proceeding sheet maintained by the Mandal Revenue Officer reads as follows:

> "6-6-1994: Case called on 6.6.1994. Both the parties present. Respondents have requested for grant of time for producing original sale documents for final hearing. Hence, the case is adjourned and posted to 13-6-1994 for final hearing."
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> "13-6-1994: Case called on 13-6-1954. Both the parties present Respondents have requested for grant of time for producing original sale documents for final hearing. But, the respondents could not produce the documents. Hence, the case is reserved for orders".

15. The Mandal Revenue Officer passed order on 22-6-1994 whereby and where under the sale documents produced for validation in respect of Survey Nos. 287, 293, 295,296, 307, 309 and 325 situated in the limits of Inmulnarva village were found to be not genuine. The relevant portion of the order passed by the Mandal Revenue Officer reads as follows:

> "Perused the records in which validation was done. It is clear

that the Pattedar (Appellant) of land bearing Sy.Nos. 287,293,395,296,307 and 325 of Inmulnarva village was not served with notices in Form No.11 as the address of the Pattadar was not written in the documents produced for validation and the Pattadar is not the resident of Inmulnarva village. The validation was done only on the evidences produced by the respondents. The respondents were asked to produce any other evidence that the lands were sold by the Pattadar as the signature in document produced is not tallying with the signature on the appeal petition. The sale document produced in file No. A/1173/89, A1174/89 the Pattedar has signed in English and share as in other document the signature of Pattadar is in Hindi. The Pattadar says that she does not know English. Thus , there is clear proof that the documents were not executed by the Pattadar. The respondents are silent on the issue. The respondents have not choosen to cross examine the Pattadar that the sale document produced by them were executed by her. The respondents have misleaded the Mandal Revenue Officer by producing forged documents and managed to get validation.

It is therefore, concluded that the sale documents produced for validation in respect of Sy.Nos. 287,293,295, 296, 307, 309 and 325 of Inmulnarva villge are not genuine. The validation made earlier in the following cases are cancelled.".

Sl. File Number Name of the person in whose Sy.No. Extent

No. favour sale was validated

1. A/1265/91 Sri Ram Das 295 1-06

296. 1-06

325. 9-20

2. A/1267/91 Sri Seviya, Man Singh, 296 12-05

Sri Ramulu

3. A/1267/91 Sri Lingya, Rediya, Bhali 307 3-19

Ram, Pedda Ramulu 309 3-19

325. 3-00

4. A/1268/91 Esra 293 4-34

295. 6-07

5. A/1269/91 Hanmiya, Ratan 293 4-35

307. 3-18

325. 5-07

6. A/1173/89 Udtya Ramulu 287 5-00

7. A/1174/89 Anandiya 287 6-17

16. The writ petitioners did not choose to challenge the order passed by the Mandal Revenue Officer, Kothur, on remand of the matter from the Appellate Authority. The contention of the writ petitioners is that the very appeal filed by the Ganga Bai-4th respondent before the appellate authority is not valid since no appeal was provided under the provisions of the R.O.R. Act as on that date. Whereas it is the contention of the 4th respondent that the writ petition itself is liable to be dismissed on the ground of laches and on the ground of suppressio veri and suggestive falsi. It is her further contention that if the order impugned in the writ petition is interfered with, it amounts to revival of another order which is itself is illegal. It is further submitted that the writ petitioners got validation of sale documents by invoking the provisions of the R.O.R. without notice being served on the 4th respondent-pattadar and in the event of the order impugned in the writ petition being set aside, it amounts to revival of order passed in violation of the principles of natural justice and contrary to the provisions of the R.O.R. Act and rules made therein.

17. The Mandal Revenue Officer in his order dated 22-6-1994 categorically recorded a finding that the earlier order of regularization of alienations basing on the unregistered document was made without notice to the Pattadar and on misrepresentation of the writ petitioners. The appellate authority remanded the matter to the Mandal Revenue Officer and the Mandal Revenue Officer, on remand,

cancelled the proceedings issued validating the alienations in favour of the petitioners. The writ petitioners did not choose to question the order passed by the Mandal Revenue Officer. It was only after lapse of 11 years, the petitioners choose to approach this Court by invoking extra ordinary jurisdiction alleging that the appeal filed by the 4th respondent before the Revenue Divisional Officer was not valid and that the proceedings, on remand, before the Mandal Revenue Officer were not within their knowledge. According to the writ petitioners, they came to know of the proceedings issued by the Mandal Revenue Officer on remand of the matter by the appellate authority on a notice being issued by the Mandal Revenue Officer directing them to surrender the Pass Books and Title Deeds issued in their name.

18. The records maintained by the Mandal Revenue Officer which have already been referred in the aforesaid paras of the judgment clearly established that the writ petitioners were put on notice, on remand of the matter from the Revenue Divisional Officer, and they did not choose to enter appearance. Therefore, the averments made in para 3 of the writ affidavit that they were totally unaware of the proceedings for cancellation of regularization of their alienations is utterly false. The petitioners having received the notice did not choose to resist the application filed by the 4th respondent before the Mandal Revenue Officer-Recording Authority. The writ petitioners, in my considered view, suppressed the material facts which are very much within their knowledge and invoked extra ordinary jurisdiction of this Court.

19. The writ petitioners having suffered the order passed by the Mandal Revenue Officer on 26-09-1994 did not choose to challenge the same for about 11 years. Therefore, the writ petition is liable to be dismissed on the ground of laches as well as suppression of material facts. The contention seriously advanced by the writ petitioners about the maintainability of the appeal before the Revenue Divisional Officer, in the circumstances of the case, need not be gone into.

20. Accordingly, this writ petition fails and the same is hereby dismissed. No order as to costs.

Justice B.Seshasayana Reddy

24th February, 2006.

KM

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 21880 OF 2005

February, 2006